

1 ERIC W. SWANIS, ESQ.  
2 Nevada Bar No. 6840  
3 GLENN F. MEIER, ESQ.  
4 Nevada Bar No. 006059  
5 **GREENBERG TRAURIG, LLP**  
6 10845 Griffith Peak Drive, Suite 600  
7 Las Vegas, Nevada 89135  
8 Telephone: (702) 792-3773  
9 Facsimile: (702) 792-9002  
10 Email: [swanise@gtlaw.com](mailto:swanise@gtlaw.com)  
[meierg@gtlaw.com](mailto:meierg@gtlaw.com)

11 CASEY SHPALL, ESQ.\*  
12 GREGORY R. TAN, ESQ.\*  
13 \*Admitted *Pro Hac Vice*  
14 **GREENBERG TRAURIG, LLP**  
15 1144 15<sup>th</sup> Street, Suite 3300  
16 Denver, Colorado 80202  
17 Telephone: (303) 572-6500  
18 Email: [shpallc@gtlaw.com](mailto:shpallc@gtlaw.com)  
[tangr@gtlaw.com](mailto:tangr@gtlaw.com)

19 ***Counsel for Defendants***

20  
21  
22  
23  
24  
25  
26  
27  
28  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

29 CRISS L. ROGERS,

30 Plaintiff,

31 v.

32 C. R. BARD, INCORPORATED and BARD  
33 PERIPHERAL VASCULAR, INCORPORATED,

34 Defendants.

35 Case No. 2:19-cv-01581-APG-BNW

36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
5510  
5511  
5512  
5513  
5514  
5515  
5516  
5517  
5518  
5519  
5520  
5521  
5522  
5523  
5524  
5525  
5526  
5527  
5528  
5529  
55210  
55211  
55212  
55213  
55214  
55215  
55216  
55217  
55218  
55219  
55220  
55221  
55222  
55223  
55224  
55225  
55226  
55227  
55228  
55229  
55230  
55231  
55232  
55233  
55234  
55235  
55236  
55237  
55238  
55239  
55240  
55241  
55242  
55243  
55244  
55245  
55246  
55247  
55248  
55249  
55250  
55251  
55252  
55253  
55254  
55255  
55256  
55257  
55258  
55259  
55260  
55261  
55262  
55263  
55264  
55265  
55266  
55267  
55268  
55269  
55270  
55271  
55272  
55273  
55274  
55275  
55276  
55277  
55278  
55279  
55280  
55281  
55282  
55283  
55284  
55285  
55286  
55287  
55288  
55289  
55290  
55291  
55292  
55293  
55294  
55295  
55296  
55297  
55298  
55299  
552100  
552101  
552102  
552103  
552104  
552105  
552106  
552107  
552108  
552109  
552110  
552111  
552112  
552113  
552114  
552115  
552116  
552117  
552118  
552119  
552120  
552121  
552122  
552123  
552124  
552125  
552126  
552127  
552128  
552129  
552130  
552131  
552132  
552133  
552134  
552135  
552136  
552137  
552138  
552139  
552140  
552141  
552142  
552143  
552144  
552145  
552146  
552147  
552148  
552149  
552150  
552151  
552152  
552153  
552154  
552155  
552156  
552157  
552158  
552159  
552160  
552161  
552162  
552163  
552164  
552165  
552166  
552167  
552168  
552169  
552170  
552171  
552172  
552173  
552174  
552175  
552176  
552177  
552178  
552179  
552180  
552181  
552182  
552183  
552184  
552185  
552186  
552187  
552188  
552189  
552190  
552191  
552192  
552193  
552194  
552195  
552196  
552197  
552198  
552199  
552200  
552201  
552202  
552203  
552204  
552205  
552206  
552207  
552208  
552209  
552210  
552211  
552212  
552213  
552214  
552215  
552216  
552217  
552218  
552219  
552220  
552221  
552222  
552223  
552224  
552225  
552226  
552227  
552228  
552229  
5522210  
5522211  
5522212  
5522213  
5522214  
5522215  
5522216  
5522217  
5522218  
5522219  
5522220  
5522221  
5522222  
5522223  
5522224  
5522225  
5522226  
5522227  
5522228  
5522229  
55222210  
55222211  
55222212  
55222213  
55222214  
55222215  
55222216  
55222217  
55222218  
55222219  
55222220  
55222221  
55222222  
55222223  
55222224  
55222225  
55222226  
55222227  
55222228  
55222229  
552222210  
552222211  
552222212  
552222213  
552222214  
552222215  
552222216  
552222217  
552222218  
552222219  
552222220  
552222221  
552222222  
552222223  
552222224  
552222225  
552222226  
552222227  
552222228  
552222229  
5522222210  
5522222211  
5522222212  
5522222213  
5522222214  
5522222215  
5522222216  
5522222217  
5522222218  
5522222219  
5522222220  
5522222221  
5522222222  
5522222223  
5522222224  
5522222225  
5522222226  
5522222227  
5522222228  
5522222229  
55222222210  
55222222211  
55222222212  
55222222213  
55222222214  
55222222215  
55222222216  
55222222217  
55222222218  
55222222219  
55222222220  
55222222221  
55222222222  
55222222223  
55222222224  
55222222225  
55222222226  
55222222227  
55222222228  
55222222229  
552222222210  
552222222211  
552222222212  
552222222213  
552222222214  
552222222215  
552222222216  
552222222217  
552222222218  
552222222219  
552222222220  
552222222221  
552222222222  
552222222223  
552222222224  
552222222225  
552222222226  
552222222227  
552222222228  
552222222229  
5522222222210  
5522222222211  
5522222222212  
5522222222213  
5522222222214  
5522222222215  
5522222222216  
5522222222217  
5522222222218  
5522222222219  
5522222222220  
5522222222221  
5522222222222  
5522222222223  
5522222222224  
5522222222225  
5522222222226  
5522222222227  
5522222222228  
5522222222229  
55222222222210  
55222222222211  
55222222222212  
55222222222213  
55222222222214  
55222222222215  
55222222222216  
55222222222217  
55222222222218  
55222222222219  
55222222222220  
55222222222221  
55222222222222  
55222222222223  
55222222222224  
55222222222225  
55222222222226  
55222222222227  
55222222222228  
55222222222229  
552222222222210  
552222222222211  
552222222222212  
552222222222213  
552222222222214  
552222222222215  
552222222222216  
552222222222217  
552222222222218  
552222222222219  
552222222222220  
552222222222221  
552222222222222  
552222222222223  
552222222222224  
552222222222225  
552222222222226  
552222222222227  
552222222222228  
552222222222229  
5522222222222210  
5522222222222211  
5522222222222212  
5522222222222213  
5522222222222214  
5522222222222215  
5522222222222216  
5522222222222217  
5522222222222218  
5522222222222219  
5522222222222220  
5522222222222221  
5522222222222222  
5522222222222223  
5522222222222224  
5522222222222225  
5522222222222226  
5522222222222227  
5522222222222228  
5522222222222229  
55222222222222210  
55222222222222211  
55222222222222212  
55222222222222213  
55222222222222214  
55222222222222215  
55222222222222216  
55222222222222217  
55222222222222218  
55222222222222219  
55222222222222220  
55222222222222221  
55222222222222222  
55222222222222223  
55222222222222224  
55222222222222225  
55222222222222226  
55222222222222227  
55222222222222228  
55222222222222229  
552222222222222210  
552222222222222211  
552222222222222212  
552222222222222213  
552222222222222214  
552222222222222215  
552222222222222216  
552222222222222217  
552222222222222218  
552222222222222219  
552222222222222220  
552222222222222221  
552222222222222222  
552222222222222223  
552222222222222224  
552222222222222225  
552222222222222226  
552222222222222227  
552222222222222228  
552222222222222229  
5522222222222222210  
5522222222222222211  
5522222222222222212  
5522222222222222213  
5522222222222222214  
5522222222222222215  
5522222222222222216  
5522222222222222217  
5522222222222222218  
5522222222222222219  
5522222222222222220  
5522222222222222221  
5522222222222222222  
5522222222222222223  
5522222222222222224  
5522222222222222225  
5522222222222222226  
5522222222222222227  
5522222222222222228  
5522222222222222229  
55222222222222222210  
55222222222222222211  
55222222222222222212  
55222222222222222213  
55222222222222222214  
55222222222222222215  
55222222222222222216  
55222222222222222217  
55222222222222222218  
55222222222222222219  
55222222222222222220  
55222222222222222221  
55222222222222222222  
55222222222222222223  
55222222222222222224  
55222222222222222225  
55222222222222222226  
55222222222222222227  
55222222222222222228  
55222222222222222229  
552222222222222222210  
552222222222222222211  
552222222222222222212  
552222222222222222213  
552222222222222222214  
552222222222222222215  
552222222222222222216  
552222222222222222217  
552222222222222222218  
552222222222222222219  
552222222222222222220  
552222222222222222221  
552222222222222222222  
552222222222222222223  
552222222222222222224  
552222222222222222225  
552222222222222222226  
552222222222222222227  
552222222222222222228  
552222222222222222229  
5522222222222222222210  
5522222222222222222211  
5522222222222222222212  
5522222222222222222213  
5522222222222222222214  
5522222222222222222215  
5522222222222222222216  
5522222222222222222217  
5522222222222222222218  
5522222222222222222219  
5522222222222222222220  
5522222222222222222221  
5522222222222222222222  
5522222222222222222223  
5522222222222222222224  
5522222222222222222225  
5522222222222222222226  
5522222222222222222227  
5522222222222222222228  
5522222222222222222229  
55222222222222222222210  
55222222222222222222211  
55222222222222222222212  
55222222222222222222213  
55222222222222222222214  
55222222222222222222215  
55222222222222222222216  
55222222222222222222217  
55222222222222222222218  
55222222222222222222219  
55222222222222222222220  
55222222222222222222221  
55222222222222222222222  
55222222222222222222223  
55222222222222222222224  
55222222222222222222225  
55222222222222222222226  
55222222222222222222227  
55222222222222222222228  
55222222222222222222229  
552222222222222222222210  
552222222222222222222211  
552222222222222222222212  
552222222222222222222213  
552222222222222222222214  
552222222222222222222215  
552222222222222222222216  
552222222222222222222217  
552222222222222222222218  
552222222222222222222219  
552222222222222222222220  
552222222222222222222221  
5522222

1       1. This case was part of the Multi-District Litigation proceeding *In re: Bard IVC Filters*  
 2 *Product Liability Litigation*, pending before Senior Judge David Campbell of the District of  
 3 Arizona.

4       2. Plaintiff alleges experiencing complications following the implantation of a Bard  
 5 Inferior Vena Cava (“IVC”) filter, a prescription medical device. He has asserted three strict products  
 6 liability counts (manufacturing defect, information defect (failure to warn) and design defect), six  
 7 negligence counts (design, manufacture, failure to recall/retrofit, failure to warn, negligent  
 8 misrepresentation and negligence per se), two breach of warranty counts (express and implied), two  
 9 counts sounding in fraud (fraudulent misrepresentation and fraudulent concealment), an unfair and  
 10 deceptive trade practices count, and a claim for punitive damages.

11      3. Defendants deny the Plaintiff’s allegations.

12      4. After four years, the completion of general issue discovery, and the conduct of three  
 13 bellwether trials, Judge Campbell ordered that cases, which have not settled or are not close to settling,  
 14 be transferred or remanded to the appropriate jurisdictions around the country for case-specific  
 15 discovery and trial. As a part of that process, he established a “track” system, wherein certain cases  
 16 were placed on tracks either to finalize settlement paperwork, continue settlement negotiations, or be  
 17 remanded or transferred.

18      5. This case was transferred to this Court on August 20, 2019 because at the time it was  
 19 not close to settling. But, since that date, the Parties have engaged in further settlement discussions  
 20 to resolve this case and the those of other plaintiffs represented by Plaintiff’s counsel with cases  
 21 pending before other United States District Courts. The Parties initially reached a global settlement  
 22 which did not include the Plaintiff. However, after renewed settlement discussions, the Parties have  
 23 recently reached a settlement in principle in this case as well.

24      6. The settlement process is well underway, as Plaintiff has signed a release and provided  
 25 lien verification documents, but it is not yet completed. Accordingly, the Parties request that  
 26 this Court issue an order staying discovery and pretrial deadlines until **April 27, 2021** to allow the  
 27 Parties time to finalize settlement documents. This will prevent unnecessary expenditures of the  
 28

///

1 Parties and judicial resources as well as place this case on a similar “track” as the MDL cases Judge  
 2 Campbell determined should continue settlement dialogue.

3       7.       A district court has broad discretion over pretrial discovery rulings. *Crawford-El v.*  
 4 *Britton*, 523 U.S. 574, 598 (1998); *accord, Republic of Ecuador v. Hinchee*, 741 F.3d 1185, 1188-89  
 5 (11<sup>th</sup> Cir. 2013); *Thermal Design, Inc. v. Am. Soc'y of Heating, Refrigerating & Air-Conditioning*  
 6 *Engineers, Inc.*, 755 F.3d 832, 837 (7<sup>th</sup> Cir. 2014); *see also, Cook v. Kartridg Pak Co.*, 840 F.2d 602,  
 7 604 (8<sup>th</sup> Cir. 1988) (“A district court must be free to use and control pretrial procedure in furtherance  
 8 of the orderly administration of justice.”).

9       8.       Under Federal Rules of Civil Procedure 26(c) and 26(d), a court may limit the scope  
 10 of discovery or control its sequence. *Britton*, 523 U.S. at 598. Although settlement negotiations do  
 11 not automatically excuse a party from its discovery obligations, the parties can seek a stay prior to the  
 12 cutoff date. *Sofo v. Pan-American Life Ins. Co.*, 13 F.3d 239, 242 (7<sup>th</sup> Cir. 1994); *see also, Wichita*  
 13 *Falls Office Assocs. v. Banc One Corp.*, 978 F.2d 915, 918 (5<sup>th</sup> Cir. 1993) (finding that a “trial judge’s  
 14 decision to curtail discovery is granted great deference,” and noting that the discovery had been  
 15 pushed back a number of times because of pending settlement negotiations).

16       9.       Facilitating the efforts of parties to resolve their disputes weighs in favor of granting  
 17 a stay. In *Coker v. Dowd*, 2:13-cv-0994-JCM-NJK, 2013 U.S. Dist. LEXIS 201845, at \*2-3 (D. Nev.  
 18 July 8, 2013), the parties requested a 60-day stay to facilitate ongoing settlement negotiations and  
 19 permit them to mediate global settlement. The Court granted the stay, finding the parties would be  
 20 prejudiced if required to move forward with discovery at that time and a stay would potentially  
 21 prevent an unnecessary complication in the case. *Id.* at \*3. Here, the Parties have reached a settlement  
 22 in principle.

23       10.      The Parties agree that the relief sought herein is necessary to handle the case in the  
 24 most economical fashion yet allow sufficient time to schedule and complete discovery if necessary,  
 25 consistent with the scheduling obligations of counsel. The relief sought in this stipulation is not being  
 26 requested for delay, but so that justice may be done.

27       ///

28       ///

1                   **WHEREFORE**, Plaintiff and Defendants respectfully request the Court's approval of this  
2 stipulation to stay discovery and all pretrial deadlines until **April 27, 2021** to allow the Parties to  
3 finalize settlement documents.

4                   **IT IS SO STIPULATED.**

5                   Respectfully submitted March 1, 2021.

7                   FLEMING, NOLEN & JEZ, LLP

8                   By: /s/ Rand P. Nolen

9                   RAND P. NOLEN, ESQ.\*

10                   *\*Admitted Pro Hac Vice*

11                   [rand\\_nolen@fleming-law.com](mailto:rand_nolen@fleming-law.com)

12                   2800 Post Oak Blvd., Ste. 4000

13                   Houston, TX 77056-6109

14                   PETER C. WETHERALL, ESQ.

15                   WETHERALL GROUP LTD.

16                   Nevada Bar No. 4414

17                   [pwetherall@wetherallgroup.com](mailto:pwetherall@wetherallgroup.com)

18                   9345 West Sunset Road, Suite 100

19                   Las Vegas, Nevada 89148

20                   ***Counsel for Plaintiff***

7                   GREENBERG TRAURIG, LLP

8                   By: /s/ Eric W. Swanis

9                   ERIC W. SWANIS, ESQ.

10                   Nevada Bar No. 6840

11                   [swanise@gtlaw.com](mailto:swanise@gtlaw.com)

12                   GLENN F. MEIER, ESQ.

13                   Nevada Bar No. 006059

14                   [meierg@gtlaw.com](mailto:meierg@gtlaw.com)

15                   10845 Griffith Peak Drive, Suite 600

16                   Las Vegas, Nevada 89135

17                   CASEY SHPALL, ESQ.\*

18                   GREGORY R. TAN, ESQ.\*

19                   *\*Admitted Pro Hac Vice*

20                   GREENBERG TRAURIG, LLP

21                   1144 15th Street, Suite 3300

22                   Denver, Colorado 80202

23                   [shpallc@gtlaw.com](mailto:shpallc@gtlaw.com)

24                   [tangr@gtlaw.com](mailto:tangr@gtlaw.com)

25                   ***Counsel for Defendants***

19                   **ORDER**

20                   On the basis of good cause, IT IS ORDERED that the parties' stipulation is  
21 GRANTED. IT IS FURTHER ORDERED that by April 27, 2021, the parties must either file  
22 dismissal documents or a joint status report regarding the status of settlement.

23                   **IT IS SO ORDERED**

24                   **DATED:** 5:10 pm, March 05, 2021

25                   

26                   **BRENDA WEKSLER**  
27                   **UNITED STATES MAGISTRATE JUDGE**